

# STATE OF NEW YORK

8289

2021-2022 Regular Sessions

## IN ASSEMBLY

October 6, 2021

Introduced by M. of A. FAHY -- read once and referred to the Committee on Banks

AN ACT to amend the general municipal law and the banking law, in relation to allowing credit unions, savings banks, savings and loan associations and federal savings associations to accept and secure deposits from municipal corporations; to direct the department of financial services to conduct a study and issue a report concerning the impact of allowing certain financial institutions to accept local government public deposits; and providing for the repeal of certain provisions upon the expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph d of subdivision 1 of section 10 of the general  
2 municipal law, as amended by chapter 623 of the laws of 1998, is amended  
3 to read as follows:

4 d. "Bank" shall mean a bank as defined by the banking law or a  
5 national banking association located and authorized to do business in  
6 New York; a savings bank as defined by the banking law, a savings and  
7 loan association as defined by the banking law or a federal savings  
8 association located and authorized to do business in New York which has  
9 its principal office in a location described in paragraph (a) of subdivi-  
10 vision two of section two hundred thirty-seven of the banking law, or a  
11 branch office in a location described in paragraph (b) of subdivision  
12 two of section two hundred thirty-seven of the banking law.

13 § 2. Section 10 of the general municipal law is amended by adding a  
14 new subdivision 5 to read as follows:

15 5. In addition to the financial institutions authorized to accept  
16 public deposits in subdivision two of this section, credit unions, as  
17 defined by the banking law or a federal credit union located and author-  
18 ized to do business in New York which has its principal office in a  
19 location described in paragraph (a) of subdivision thirty-eight of

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 section four hundred fifty-four of the banking law, or a branch office  
2 in a location described in paragraph (b) of subdivision thirty-eight of  
3 section four hundred fifty-four of the banking law, may accept public  
4 deposits by a local government subject to the limitations set forth  
5 herein. For the calendar year beginning January first, two thousand  
6 twenty-two, the governing board of a local government may designate one  
7 or more credit unions, for the deposit of public funds in an amount not  
8 to exceed five hundred thousand dollars in each institution. For the  
9 calendar year beginning January first, two thousand twenty-three, the  
10 governing board of a local government may designate one or more credit  
11 unions for the deposit of public funds in an amount not to exceed one  
12 million dollars in each institution. For the calendar year beginning  
13 January first, two thousand twenty-four, the governing board of a local  
14 government may designate one or more credit unions for the deposit of  
15 public funds in an amount not to exceed two million dollars in each  
16 institution. For the calendar year beginning January first, two thou-  
17 sand twenty-five, the governing board of a local government may desig-  
18 nate one or more credit unions for the deposit of public funds in an  
19 amount not to exceed three million dollars in each institution. For the  
20 calendar year beginning January first, two thousand twenty-six, the  
21 governing board of a local government may designate one or more credit  
22 unions for the deposit of public funds in an amount not to exceed four  
23 million dollars in each institution. For the calendar year beginning  
24 January first, two thousand twenty-seven, the governing board of a local  
25 government may designate one or more credit unions for the deposit of  
26 public funds in an amount not to exceed five million dollars in each  
27 institution. For the purposes of this section, a deposit limit shall  
28 mean the maximum amount of all funds of a local government in an insti-  
29 tution based on a daily account balance excluding any accrued interest.

30 § 3. Section 454 of the banking law is amended by adding a new subdi-  
31 vision 38 to read as follows:

32 38. (a) To accept deposits for credit to a local government, as  
33 defined in paragraph a of subdivision one of section ten of the general  
34 municipal law, at its principal office where such credit union maintains  
35 its principal office within the jurisdiction of such local government.

36 (b) To accept deposits for credit to a local government, as defined in  
37 paragraph a of subdivision one of section ten of the general municipal  
38 law, at its branch office where such credit union maintains a branch  
39 office within the jurisdiction of such local government.

40 § 4. The banking law is amended by adding a new section 454-a to read  
41 as follows:

42 § 454-a. Deposits of public money with credit unions; security. A  
43 credit union may accept deposits of public money subject to the limita-  
44 tions provided in subdivision thirty-eight of section four hundred  
45 fifty-four of this article. Such credit union shall pledge assets or  
46 furnish other security satisfactory in form and amount to the depositor,  
47 for the repayment of monies held in the name of such depositor, when  
48 required to be secured by applicable law, decree or regulation.

49 § 5. The banking law is amended by adding a new section 454-b to read  
50 as follows:

51 § 454-b. Community investment by credit union; condition of accepting  
52 municipal deposits. 1. If the average daily balance of the municipal  
53 funds on deposit at the credit union for the preceding year is in excess  
54 of three hundred thousand dollars, the chief financial officer, or the  
55 senior official in the credit union with responsibility for performing  
56 the functions of a chief financial officer of a credit union that choos-

1 es to accept municipal deposits pursuant to section ten of the general  
2 municipal law, shall, consistent with safety and soundness, transmit to  
3 the department by December thirty-first each year, a written certifi-  
4 cation, in a form specified by the superintendent and posted on the  
5 department's website, that the credit union has invested into the commu-  
6 nity, pursuant to this section, a sum equal to the average daily  
7 balance, multiplied by a factor of .0035, provided, however, in no  
8 event, shall a credit union be required to contribute a sum in excess of  
9 one hundred thousand dollars in any one year.

10 2. The community investment described in subdivision one of this  
11 section shall be used to support any of the following purposes, as  
12 determined by the credit union, in any community where such credit union  
13 has authority to provide services, provided the credit union shall  
14 prioritize low-income communities when choosing where to invest:

15 (a) minority and women-owned business enterprises in the community; or

16 (b) affordable housing (including multifamily rental housing) for low-  
17 and moderate-income individuals in the community; or

18 (c) community services targeted to low- and moderate-income individ-  
19 uals in the community; or

20 (d) activities that revitalize or stabilize the community including  
21 low- or moderate-income geographies, or designated disaster areas; or

22 (e) financial literacy.

23 3. For purposes of the community investment pursuant to this this  
24 section, field of membership restrictions shall not apply.

25 § 6. Subdivision 2 of section 237 of the banking law, as amended by  
26 chapter 360 of the laws of 1984, is amended to read as follows:

27 ~~2. [No savings bank shall accept any deposit for credit to any munici-~~  
28 ~~pal corporation.]~~ (a) A savings bank which maintains its principal  
29 office within the jurisdiction of a local government, as defined in  
30 paragraph a of subdivision one of section ten of the general municipal  
31 law, may accept deposits at such principal office for credit to such  
32 local government.

33 (b) A savings bank which maintains a branch office within the juris-  
34 isdiction of a local government, as defined in paragraph a of subdivi-  
35 sion one of section ten of the general municipal law, may accept deposits at  
36 such branch office for credit to such local government.

37 § 7. Section 234 of the banking law is amended by adding a new subdi-  
38 vision 27 to read as follows:

39 27. Pursuant to subdivision two of section two hundred thirty-seven of  
40 this article, to pledge assets or furnish other security satisfactory in  
41 form and amount to the depositor, for the repayment of monies held in  
42 the name of such depositor, when required to be secured by applicable  
43 law, decree or regulation and to exercise the powers contained in  
44 section ninety-six-b of this chapter.

45 § 8. Section 383 of the banking law is amended by adding a new subdi-  
46 vision 18 to read as follows:

47 18. Pursuant to subdivision two of section two hundred thirty-seven of  
48 this chapter, to pledge assets or furnish other security satisfactory in  
49 form and amount to the depositor, for the repayment of monies held in  
50 the name of such depositor, when required to be secured by applicable  
51 law, decree or regulation and to exercise the powers contained in  
52 section ninety-six-b of this chapter.

53 § 9. 1. The department of financial services is hereby authorized and  
54 directed to study and issue a public report with recommendations,  
55 concerning the impact of allowing credit unions, savings banks, savings  
56 and loan associations or federal savings associations to accept local

1 government public deposits. This report shall be prepared in consulta-  
2 tion with stakeholders, including local governments, banks, credit  
3 unions, savings banks, savings and loan associations and federal savings  
4 associations.

5 2. On or before January 1, 2027, the superintendent of financial  
6 services shall submit to the governor, the temporary president of the  
7 senate, the speaker of the assembly, the chair of the senate standing  
8 committee on banks, and the chair of the assembly standing committee on  
9 banks, a written report detailing the findings and recommendations on  
10 the department's study performed in accordance with subdivision one of  
11 this section. The superintendent shall use reasonable efforts to identi-  
12 fy any impacts by expanding the financial institutions eligible to  
13 accept municipal deposits and shall include the following information in  
14 the report:

15 (a) An analysis of deposits held in banks including the size of the  
16 bank's assets, location of banks, type of bank charter, changes in the  
17 amount of commercial bank held deposits from the effective date of this  
18 act and overall impact on banking industry, in particular small communi-  
19 ty banks.

20 (b) The growth of municipal deposits held in credit unions, savings  
21 banks, savings and loan associations or federal savings associations  
22 after the effective date of this act.

23 § 10. Section 86 of the banking law, as amended by chapter 274 of the  
24 laws of 2007, is amended to read as follows:

25 § 86. Eligibility. 1. For the purposes of this article, the term  
26 "community bank institution" shall mean any state or federally chartered  
27 banking institution and shall include any bank, trust company, savings  
28 bank or savings and loan association with less than ten billion dollars  
29 in assets that is headquartered in this state and whose predominant  
30 retail and commercial banking operations serve residents and businesses  
31 of this state, as determined by the superintendent in his or her sole  
32 discretion and pursuant to such rules and regulations as the superinten-  
33 dent deems necessary to implement and administer these provisions.

34 2. To be eligible to receive deposits, or to renew existing deposits  
35 under this program[~~, a bank, trust company, savings bank or savings and~~  
36 ~~loan association: (a) must be chartered under the provisions of this~~  
37 ~~chapter and (b)] a community bank institution:~~

38 (a) must have a current CRA rating of satisfactory or better. The  
39 superintendent shall, if requested by the state comptroller or the  
40 commissioner of taxation and finance, confirm whether a particular bank-  
41 ing institution meets the criteria specified in this section; and

42 (b) meet any additional criteria established by the comptroller and  
43 the commissioner of taxation and finance to determine eligibility for  
44 participation in the program. Such criteria may include an institution's  
45 loan to deposit ratio, its record of small business lending, and the  
46 impact such deposits would have on an area's economic activity.

47 [~~2. A federal bank, trust company, savings bank or savings and loan~~  
48 ~~association may also be eligible to receive deposits, or to renew exist-~~  
49 ~~ing deposits, under this program if: (a) its principal office is located~~  
50 ~~in this state; (b) it has a current CRA rating of satisfactory or~~  
51 ~~better; and (c) it meets any additional criteria established by the~~  
52 ~~comptroller and the commissioner of taxation and finance to determine~~  
53 ~~eligibility for participation in the program. Such criteria may include~~  
54 ~~an institution's loan to deposit ratio, its record of small business~~  
55 ~~lending, and the impact such deposits would have on an area's economic~~  
56 ~~activity.]~~

1 § 11. Section 87 of the banking law, as amended by chapter 274 of the  
2 laws of 2007, subdivision 2 as amended by chapter 495 of the laws of  
3 2013, is amended to read as follows:

4 § 87. Deposits. 1. Notwithstanding any provisions of law to the  
5 contrary, the state comptroller and the commissioner of taxation and  
6 finance shall, for the purposes of administering moneys in accordance  
7 with the provisions of sections ninety-eight-a and one hundred five of  
8 the state finance law, give consideration to depositing funds into those  
9 community banking institutions which are deemed eligible to receive  
10 deposits pursuant to section eighty-six of this article.

11 2. The maximum amount of funds which the state comptroller and the  
12 commissioner of taxation and finance may deposit under this program  
13 shall not exceed [~~two~~] three hundred [~~fifty~~] million dollars each. [~~The~~  
14 ~~maximum amount of funds on deposit at a community banking institution~~  
15 ~~shall not exceed twenty million dollars.~~]

16 3. Notwithstanding any provision of law to the contrary, any deposits  
17 made pursuant to this article shall be made at rates, and for such peri-  
18 ods of time, as may be agreed to by the state comptroller or the commis-  
19 sioner of taxation and finance and the eligible community banking insti-  
20 tution.

21 4. Any deposits made pursuant to this article may be secured by an  
22 irrevocable letter of credit issued by a federal home loan bank.

23 5. The comptroller and the commissioner of taxation and finance shall  
24 annually submit a joint report to the governor, the temporary president  
25 of the senate, the speaker of the assembly, the chair of the senate  
26 finance committee, the chair of the assembly ways and means committee,  
27 the chair of the senate standing committee on banks, and the chair of  
28 the assembly standing committee on banks on the efficacy of the communi-  
29 ty bank deposit program, including information on the number of quali-  
30 fied community banking institutions, the number of community banking  
31 institutions which have received deposits, the size of each participat-  
32 ing community bank, the number and amount of such deposits and the  
33 percentage of total state funds deposited in such institutions under  
34 this program.

35 § 12. No municipal deposits held in credit unions by local governments  
36 on December 31, 2027 shall be required to be withdrawn upon the expira-  
37 tion of this act.

38 § 13. This act shall take effect on the ninetieth day after it shall  
39 have become a law; provided that sections two, three, four, five and  
40 nine of this act shall expire and be deemed repealed December 31, 2027.